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2011 VOLUME 16, NUMBER 1



Letter from the Chair

WILLIAM AROCKIASAMY, PROFESSIONAL ENGINEER

Privilege to Serve

Each one of us is blessed with an abundance of privileges. Some privileges are given and received. Some are earned, earned by hard work, patience and perseverance. Some privileges are unconditional. Some are conditional with significant responsibilities. A license to practice a profession in our State of Minnesota is definitely an earned privilege. It is earned with an adequate amount of education and training which has to be tested by examinations. This privilege comes with serious responsibility and commitment. The commitment is to preserve, protect and improve the health, safety and welfare of the public at all times. This commitment has to be the foundation on which the practice of a profession is to be conducted. The privilege of a license to practice does not give the licensee extraordinary or super powers to decide something that does not have a verifiable basis.

In the practice of a profession, sometimes the need to serve our clients and preserve a successful business may over-power our commitment to serve the public diligently and ethically. In those times, we need to look beyond the immediate needs of the client we are working with and recognize the needs of the public we are really serving. How do we do this?

1. Always keep in mind not only the client but also the public who will be affected by the professional practice. Strive to be fair to clients without ever putting the health, safety and welfare of the public at risk.
2. Educate the client about the limitations as to what is possible and what is not possible in a given economic constraint.
3. Do not venture outside the area of your expertise and put the public at risk. When you are not qualified, delegate responsibilities to qualified professionals.
4. Invest in independent peer reviews. It is easy and somewhat natural to be generous in estimating one's own expertise and capabilities.
5. Take ownership of the products of your professional service and be proud of your work product.

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This issue contains an important notice for a PUBLIC HEARING on possible rule amendments regarding oral examinations. See page 2 for details.

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NOTICE OF HEARING

Proposed Amendment to Rules Governing Oral Examinations, Minnesota Rules, 1800.0800, 1800.0900, 1800.2600, 1800.3600.

Public Hearing. The Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design intends to adopt rules after a public hearing following the procedures in the rules of the Office of Administrative Hearings, Minnesota Rules, parts 1400.2200 to 1400.2240, and the Administrative Procedure Act, Minnesota Statutes, sections 14.131 to 14.20. The agency will hold a public hearing on the above-named rules in Suite 295, Golden Rule Building, 85 E. 7th Place, St. Paul, Minnesota 55101, starting at 9:00am on Tuesday, November 8, 2011, and continuing until the hearing is completed. The agency will schedule additional days of hearing if necessary. All interested or affected persons will have an opportunity to participate by submitting either oral or written data, statements, or arguments. Statements may be submitted without appearing at the hearing.

Administrative Law Judge. Administrative Law Judge Manuel J. Cervantes will conduct the hearing. The judge can be reached at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620, Saint Paul, Minnesota 55164-0620, telephone 651-361-7945, and FAX 651-361-7936. The rule hearing procedure is governed by Minnesota Statutes, sections 14.131 to 14.20, and by the rules of the Office of Administrative Hearings, Minnesota Rules, parts 1400.2000 to 1400.2240. You should direct questions about the rule hearing procedure to the administrative law judge.

Subject of Rules, Statutory Authority, and Agency Contact Person. The proposed rules are about the elimination of oral examinations as a requirement for licensure as a professional engineer or land surveyor. The proposed rules are authorized by Minnesota Statutes, section 326.06 (2010). A copy of the proposed rules is published in the State Register and attached to this notice as mailed. A free copy of the rules is available upon request from the agency contact person. The agency contact person is: Andrea Barker at Board of AELSLAGID, 85 East 7th Place, Suite 160, St. Paul, MN 55101; Phone: 651-757-1511; FAX: 651-297-5310; and e-mail: andrea.barker@state.mn.us. TTY users may call the Board of AELSLAGID at 1-800-627-3529.

Statement of Need and Reasonableness. The statement of need and reasonableness contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. It is now available from the agency contact person. You may review or obtain copies for the cost of reproduction by contacting the agency contact person. The SONAR is also available on the Board's website at www.aelslagid.state.mn.us.

Public Comment. You and all interested or affected persons, including representatives of associations and other interested groups, will have an opportunity to participate. The administrative law judge will accept your views either orally at the hearing or in writing at any time before the close of the hearing record. Submit written comments to the administrative law judge at the address above or to rulecomments@state.mn.us. All evidence that you present should relate to the proposed rules. You may also submit written material to the administrative law judge to be recorded in the hearing record for five working

days after the public hearing ends. At the hearing the administrative law judge may order this five-day comment period extended for a longer period but for no more than 20 calendar days. Following the comment period, there is a five-working-day rebuttal period during which the agency and any interested person may respond in writing to any new information submitted. No one may submit additional evidence during the five-day rebuttal period. The Office of Administrative Hearings must receive all comments and responses submitted to the administrative law judge no later than 4:30 p.m. on the due date. All comments or responses received are public and will be available for review at the Office of Administrative Hearings.

The agency requests that any person submitting written views or data to the administrative law judge before the hearing or during the comment or rebuttal period also submit a copy of the written views or data to the agency contact person at the address stated above.

Alternative Format/Accommodation. Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make such a request or if you need an accommodation to make this hearing accessible, please contact the agency contact person at the address or telephone number listed above.

Modifications. The agency may modify the proposed rules as a result of the rule hearing process. It must support modifications by data and views presented during the rule hearing process. The adopted rules may not be substantially different than these proposed rules, unless the agency follows the procedure under Minnesota Rules, part 1400.2110. If the proposed rules affect you in any way, the agency encourages you to participate.

Adoption Procedure after the Hearing. After the close of the hearing record, the administrative law judge will issue a report on the proposed rules. You may ask to be notified of the date when the judge's report will become available, and can make this request at the hearing or in writing to the administrative law judge. You may also ask to be notified of the date that the agency adopts the rules and files them with the Secretary of State, or ask to register with the agency to receive notice of future rule proceedings. You may make these requests at the hearing or in writing to the agency contact person stated above.

Lobbyist Registration. Minnesota Statutes, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. You should direct questions regarding this requirement to the Campaign Finance and Public Disclosure Board at: Suite #190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone 651-296-5148 or 1-800-657-3889.

Order. I order that the rulemaking hearing be held at the date, time, and location listed above.

Signed: September 13, 2011 by Doreen Frost, Executive Director

The proposed rule language and Statement of Need and Reasonableness (SONAR) are available on the Board's website at www.aelslagid.state.mn.us.

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Recently I had an opportunity to review a set of calculations which had been stamped and certified by a professional. Assumptions made were not valid. Some code requirements were deviated without justification. Models created were possibly erroneous. When I asked for some clarifications, the Professional Engineer (PE) who had stamped and signed the calculations explained that the calculations were performed by an Engineer In-Training (EIT) and hence he (the PE) would not be able to explain those aspects of the calculations. However, he stated that he was comfortable with the set of calculations. What is missing here is direct supervision by the PE in responsible charge. When a licensed professional affixes his/her seal and signature, he/she declares irrevocably to the public that his/her professional skill and judgment are embodied in the products of service. Therefore, the licensee is responsible and not the EIT.

All the statutes and rules that are put in place to govern professional practice are for the protection of the health, safety and welfare of the public. When this purpose is ignored, defeated or violated, the Board is empowered to enforce the provisions of the statutes and rules to remedy such situations. Then the privilege of license to practice will be in big trouble.

The duty to hold paramount the health, safety and welfare of the public goes beyond one's own professional practice. Each licensee also has a duty to protect the public from irresponsible professional practice of other licensees. If you have reasons to be concerned about the professional practice of another licensee, you have a duty to act responsibly to remedy such situations. The Board cannot protect the public from such professional practice without your help.

With best wishes,
William D. Arockiasamy, P. E.

Disciplinary Actions

Disclaimer: Every effort has been made to ensure that the following enforcement information is correct; however, this information should not be relied upon without verification from the Board office. It should be noted that the names of companies and individuals listed may be similar to the names of parties who have not had enforcement actions taken against them. Disciplinary orders are public data and copies may be obtained by contacting the Board office or by viewing the order on the web page at www.aelslagid.state.mn.us.

Disciplinary Actions:

In the Matter of R. Arlen Heathman Professional Engineer License #16177

On December 13, 2010, the Board issued an Order to Lift Suspension of License. **Findings:** On October 22, 2010, the Board issued an Order for Additional Discipline, which suspended R. Arlen Heathman ("Respondent")'s Professional Engineer license until such time as the Respondent complies with the June 12, 2008 Stipulation and Order, Board File No. 2006-0005, by successfully completing ten (10) hours of live instruction on Minnesota Building Code required therein and submitting satisfactory documentation thereof to the Board; and which ordered that the Respondent pay a civil penalty in the amount of \$2,500.

On October 28, 2010, the Board received the civil penalty in the amount of \$2,500.00 from the Respondent, submitted by the Respondent's attorney. In addition, Respondent's attorney submitted an Affidavit by the Respondent, dated October 27, 2010, containing information about courses that the Respondent attended since the Respondent's August 3, 2010 affidavit was submitted to the Board. A true and correct copy of the Affidavit of R. Arlen Heathman dated October 27, 2010 is on file in the Board office.

On November 17, 2010, the Complaint Committee of the Board reviewed the Affidavit of R. Arlen Heathman, dated October 27, 2010 and determined that the course information contained in Respondent's August 3, 2010 and October 27, 2010 affidavits and exhibits thereto, taken together, comply with the live instruction requirement in the Board's June 12, 2008 Stipulation and Order.

Conclusions: The Board accepts Respondent's October 27, 2010 Affidavit and Exhibits into the record in this matter. The Board concludes that the requirements and conditions in the Board's Order for Additional Discipline, dated October 22, 2010, have been met. This Order is in the public interest.

Order: NOW, THEREFORE, based on all the files and records and proceedings herein, IT IS ORDERED, pursuant to Minnesota Statutes section 326.111, subdivision 4

(2010), that the suspension of Respondent's Professional Engineer License, No. 16177, is LIFTED effective December 13, 2010.

In the Matter of Kevin Holmstrom Professional Engineer License #24391

On December 13, 2010, the Board issued an Order. Facts: Pursuant to Minn. Stat. § 270C.72, subd. 1 (2008), the Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design ("Board") must "revoke" a professional license if the license holder owes delinquent state taxes, penalties, or interest, and the Minnesota Commissioner of Revenue so notifies the Board. On July 12, 2010, the Board upon received a Notice of License Revocation from the Minnesota Department of Revenue, which advised the Board that the Kevin Holmstrom ("Respondent") had not filed Minnesota tax returns. On July 13, 2010, the Board issued an order revoking Respondent's professional engineer license, No. 24391. On November 4, 2010, the Board received a Clearance Certificate from the Department of Revenue concerning Respondent's delinquent tax filing situation. On March 18, 1996, the Department of Revenue issued Revenue Notice #96-01, which states, in part, as follows:

The term revoke, generally implies that the license has been terminated in such a way that the licensee may not be reinstated, or may be reinstated only after a period of time. For purposes of Minn. Stat. § 270.72, the Department of Revenue deems the term revoke to mean that the taxpayers license will be suspended until the tax obligation has been satisfied and the tax clearance certificate has been issued.

This Order is in the public interest.

Order: NOW, THEREFORE, IT IS ORDERED that, pursuant to Minn. Stat. §§ 270C.72, and 326.111, subd. 4 (2008), and Revenue Notice #96-01, as follows:

- A. The Board's July 13, 2010 order revoking Respondent's professional engineer license, No. 24391, is VACATED;
- B. Respondent's professional engineer license, No. 24391, is SUSPENDED effective July 13, 2010; and,
- C. The suspension of Respondent's professional engineer license, No. 24391, is LIFTED effective November 4, 2010.

In the Matter of Thomas Ellison Architect License #15691 Certified Interior Design Certificate #C00079

On December 13, 2010, the Board issued a Stipulation and Order. Facts: Respondent was first licensed by the Board as

an Architect on September 10, 1982. On June 30, 2008, Respondent's Minnesota Architect license expired. Respondent was issued a Certified Interior Designer (CID) certificate number C00079 on April 22, 1994 in the State of Minnesota. Respondent renewed his Architect license and his certification as a Certified Interior Designer on July 1, 2010. As of the date of this Stipulation, Respondent's Minnesota Architect license and certification as a Certified Interior Designer are current, with an expiration date of June 30, 2012.

In a letter to the Board dated July 2, 2010, Respondent self-reported that he held himself out as an Architect in Minnesota during the last biennium, the period during which his Architect license was expired. Respondent states: "I cannot sign the Affidavit for Reinstatement because of item 4. I have represented myself as an architect during the last biennium; however I have done so completely unaware that I was not registered." A true and correct copy of the July 2, 2010 letter is on file in the Board office.

Respondent's business card used during the biennium of 07/01/2008 to 07/01/2010, the period during which his Minnesota Architect license was expired, states: "Tom Ellison, President AIA" and "Architects, Ellison & Nepp." A Minnesota business address appears on the business card. In a marketing brochure used by the Respondent, it states: "Architects, Ellison & Nepp." A Minnesota business address appears in the marketing brochure. On the Respondent's business letterhead, it states: "Architects, Ellison & Nepp." A Minnesota business address appears on Respondent's business letterhead. True and correct copies of the Respondent's business card, marketing brochure and letterhead are on file in the Board office.

Enforcement Action: Respondent is reprimanded for the foregoing conduct. Respondent shall pay to the Board a civil penalty of \$1,500.00.

In the Matter of Jeffrey Brett Land Surveyor License #19095

On December 13, 2010, the Board issued a Stipulation and Order. Facts: Respondent was first licensed to practice Land Surveying in the State of Minnesota on July 15, 1988. On June 30, 2008, Respondent's license to practice Land Surveying in the State of Minnesota expired. On January 4, 2010, Respondent's license to practice Land Surveying in the State of Minnesota was reinstated. A true and correct copy of Respondent's reinstatement application signed December 30, 2009 is on file in the Board office.

Attached to the Application for License Reinstatement, Respondent submitted a letter dated December 30, 2009 which stated: "I learned yesterday that I did not get relicensed in July of 2008. Due to an address change in 2005 of my residence from Duluth back to Grand Marais my notice for renewal was never received. On page two of the reinstatement form I am asked to sign and notarize as to items 1 through 5. I can sign as acceptance and agreement

to items 1 through 3, however 4 and 5, I cannot. After July of 2008, as I was not aware of the expiration of my License, I did and have up until now continued to operate my small business, perform surveys, set property corners, sign drawings and write land descriptions." A true and correct copy of Respondent's letter dated December 30, 2009 is on file in the Board office.

In a letter dated February 26, 2010, Respondent disclosed a list of thirty nine (39) projects/jobs he signed and certified during the lapse of his Land Surveyor license from July 1, 2008 to January 4, 2010. A true and correct copy of Respondent's letter dated February 26, 2010 is on file in the Board office.

Enforcement Action: Respondent is reprimanded for the foregoing conduct. Respondent shall pay to the Board a civil penalty of \$3,000.00.

In the Matter of Craig Degendorfer Architect License #15954 Certified Interior Design Certificate #C00368

On February 4, 2011, the Board issued a Stipulation and Order. Facts: Respondent was first licensed as an Architect in the State of Minnesota on March 4, 1983. On June 30, 2010, Respondent's Minnesota Architect license expired. Respondent was issued a Certified Interior Designer (CID) certificate number C00368 by the Board on May 5, 1994. Respondent allowed his CID certificate number C00368 to lapse on June 30, 2010. Respondent renewed his Architect license and his certification as a Certified Interior Designer on August 16, 2010. At the time of this Stipulation, Respondent's Architect license and certification as a Certified Interior Designer in the State of Minnesota are current, with an expiration date of June 30, 2012.

During the time the Respondent's Architect license and his certification as a Certified Interior Designer lapsed, from July 1, 2010 to August 16, 2010, the Respondent held himself out as a "Licensed Architect" on his business card and brochure for his company in conjunction with a Minnesota business address. Respondent held himself out as a CID by using the title of "Certified Interior Design" on his business card in conjunction with a Minnesota business address. Respondent admits in his letter received by the Board on August 27, 2010: "I am also attaching a page from the Twin City Builders Association Directory that has the listing for my firm (this is the only organization I belong to and the only place that my company would be listed besides on the internet which is the location that your investigation is concerned with and which you already have a copy of) (these items or listings were active during the time period in question)." A true and correct copy of the letter received by the Board on August 27, 2010 is on file in the Board office.

Respondent's company brochure for 'Charles Allen Fine

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Homes' states: "Licensed Architect." Respondent's business card states: "Licensed Architect" and "Certified Interior Design." True and correct copies of Respondent's company brochure and business card are on file in the Board office.

Enforcement Action: Respondent is reprimanded for the foregoing conduct. Respondent shall pay to the Board a civil penalty of \$500.00 to the Board, of which \$500.00 will be stayed on the condition that Respondent does not violate any Statutes or Rules within the Board's jurisdiction for two (2) years beginning on the date that the Board Chair signs the Order.

**In the Matter of Frank Mileto
Architect License #26239
Not Licensed as a Professional Engineer**

On March 11, 2011, the Board issued a Settlement Agreement and Cease and Desist Order. Facts: Respondent is not currently and never has been licensed by the Board as a Professional Engineer in the State of Minnesota. Respondent was licensed by the Board as an Architect in the State of Minnesota, license number 26239 on September 25, 1998. As of the date of this Settlement Agreement and Cease and Desist Order, Respondent's Architect license in Minnesota is current with an expiration date of June 30, 2012. Respondent practiced professional engineering, as defined in Minnesota Statutes section 326.02, subdivision 3, without a Professional Engineer license, by signing the electrical and mechanical drawings for the Fuji Steak House, located in Waite Park, Minnesota on November 19, 2009.

Fuji Steak House

1. On the E-2, 'Lighting Plan' drawing dated November 19, 2009, Respondent, using his Architect license #26239, signed and certified the drawing for the Fuji Steak House, located in Waite Park, Minnesota. A partial copy of Respondent's certification on that date is attached hereto as Exhibit A. A true and correct set of drawings is located in the Board office.
2. On the E-3, 'Panel Schedule & Elec. Riser Diagram Plan' drawing dated November 19, 2009, Respondent, using his Architect license #26239, signed and certified the drawing for the Fuji Steak House, located in Waite Park, Minnesota. A partial copy of Respondent's certification on that date is attached hereto as Exhibit B. A true and correct set of drawings is located in the Board office.
3. On the M-1, 'HVAC Plan' drawing dated November 19, 2009, Respondent, using his Architect license #26239, signed and certified the drawing for the Fuji Steak House, located in Waite Park, Minnesota. A partial copy of Respondent's certification on that date is attached hereto as Exhibit C. A true and correct set of drawings is located in the Board office.
4. On the M-2, 'Ventilation Plan' drawing dated

November 19, 2009, Respondent, using his Architect license #26239, signed and certified the drawing for the Fuji Steak House, located in Waite Park, Minnesota. A partial copy of Respondent's certification on that date is attached hereto as Exhibit D. A true and correct set of drawings is located in the Board office.

In a letter to the Board dated February 4, 2010, Respondent states:

"I did not intend to violate the rules or practice engineering. If my efforts went beyond the scope of Architecture it certainly is not intentional and will cease immediately. I apologize if I misinterpreted the scope of work permitted in:

Minnesota Statutes 326.02, Sub 2 Practice of Architecture.

Any person shall be deemed to be practicing architecture, within the meaning of sections 326.02 to 326.15, who holds out as being able to perform or who does perform any professional service, such as planning, design, or supervision of construction for the purpose of assuring compliance with specifications and design, in connection with any private or public buildings, structures or projects, or the equipment or utilities thereof, or the accessories thereto, wherein the safeguarding of life, health, or property is concerned or involved, when such professional service requires the application of the art and science of construction based upon the principles of mathematics, aesthetics, and the physical sciences, acquired by education or training, and by experience. For the purposes of this subdivision "supervision" is a professional service as distinguished from superintending of construction and means the performance or the supervision thereof, of reasonable and ordinary on the site observations to determine that the construction is in substantial compliance with the approved drawings, plans and specifications ...[sic]...

A true and correct copy of the February 4, 2010 letter is on file in the Board office.

Enforcement Action: Respondent shall cease and desist from practicing professional engineering in Minnesota until such time as he becomes licensed as a professional engineer in the State of Minnesota. Respondent shall pay a civil penalty of \$2,000.00 to the Board.

**In the Matter of Frank Mileto
Architect License #26239
Not Licensed as a Professional Engineer**

On March 11, 2011, the Board issued a Settlement Agreement and Cease and Desist Order. Facts: Respondent is not currently and never has been licensed by the Board as a Professional Engineer in the State of Minnesota. b. Respondent was licensed by the Board as an Architect in the State of Minnesota, license number 26239 on September 25, 1998. As of the date of this Settlement Agreement and Cease and Desist Order, Respondent's Architect license in Minnesota is current with an expiration date of

June 30, 2012. Respondent practiced professional engineering, as defined in Minnesota Statutes section 326.02, subdivision 3, without a Professional Engineer license, by signing the electrical drawings for the Four Sea Chinese Restaurant, located in Park Rapids, Minnesota on July 1, 2009.

Four Sea Chinese Restaurant

1. On the E-1, 'Ceiling - Electrical Plan' drawing dated July 1, 2009, Respondent, using his Architect license #26239, signed and certified the drawing for the Four Sea Chinese Restaurant, located in Park Rapids, Minnesota. A true and correct set of drawings is located in the Board office.

In a letter to the Board dated February 4, 2010, Respondent states:

"I did not intend to violate the rules or practice engineering. If my efforts went beyond the scope of Architecture it certainly is not intentional and will cease immediately. I apologize if I misinterpreted the scope of work permitted in:

Minnesota Statutes 326.02, Sub 2 Practice of Architecture.

Any person shall be deemed to be practicing architecture, within the meaning of sections 326.02 to 326.15, who holds out as being able to perform or who does perform any professional service, such as planning, design, or supervision of construction for the purpose of assuring compliance with specifications and design, in connection with any private or public buildings, structures or projects, or the equipment or utilities thereof, or the accessories thereto, wherein the safeguarding of life, health, or property is concerned or involved, when such professional service requires the application of the art and science of construction based upon the principles of mathematics, aesthetics, and the physical sciences, acquired by education or training, and by experience. For the purposes of this subdivision "supervision" is a professional service as distinguished from superintending of construction and means the performance or the supervision thereof, of reasonable and ordinary on the site observations to determine that the construction is in substantial compliance with the approved drawings, plans and specifications ...[sic]...

A true and correct copy of the February 4, 2010 letter is on file in the Board office.

On the E-1 'Ceiling - Electrical Plan' drawing dated July 1, 2009, Respondent, using his Architect license #26239, signed and certified the drawing for the Four Sea Chinese Restaurant, located in Park Rapids, Minnesota, made a note in the lower left hand corner that stated:

" NOTE: MECHANICAL, PLUMBING AND ELECTRICAL DIAGRAMS SHOWN ON THESE PLANS ARE INTENDED TO PROVIDE THE MOST COMPLETE INFORMATION POSSIBLE. THEY ARE NOT TO BE CONSIDERED ENGINEERED PLANS. IF THE SERVICES OF A LICENSED ENGINEER ARE REQUIRED IT SHALL BE THE RESPONSIBILITY OF THE CLIENT TO

COMMISSION SUCH SERVICES...[sic]... A true and correct set of drawings is located in the Board office.

Enforcement Action: Respondent shall cease and desist from practicing professional engineering in Minnesota until such time as he becomes licensed as a professional engineer in the State of Minnesota. Respondent shall pay a civil penalty of \$2,000.00 to the Board.

In the Matter of Carl Walker Professional Engineer License #26438

On March 11, 2011, the Board issued a Stipulation and Order. Facts: Respondent was first licensed as a Professional Engineer in the State of Minnesota on February 16, 1999. On July 1, 2008, Respondent's Minnesota Professional Engineer license expired. On December 29, 2009, the Board received the Respondent's Application for License Reinstatement through June 30, 2010 and renewed his Professional Engineering license. A true and correct copy of the Respondent's Application for License Reinstatement through June 30, 2010, is on file in the Board office. With the Respondent's Application for License Reinstatement through June 30, 2010, was an Affidavit for Reinstatement. On the Affidavit for Reinstatement, Respondent crossed off paragraph 4 and stated: "See Attached letter." A true and correct copy of the Affidavit for Reinstatement is on file in the Board office.

Attached to the Application for License Reinstatement through June 30, 2010, Respondent submitted a letter dated December 22, 2009 that stated: "As I discussed with you and Linette, I had never received the renewal card for the last renewal cycle for my license in the State of Minnesota nor did I receive any additional notifications stating I was past due, thus I was still under the impression I had an active license. I had signed a set of metal building drawings for our customer in Minnesota and received a call from our customer today (12/22/2009) informing me my seal was invalid. Under the impression I was still active, I called you immediately after receiving the call from our customer to discuss this issue and how to resolve. To my embarrassment, I now know my license is inactive and after discussing the requirements with Linette, I am writing this letter of attachment to explain my circumstances and acknowledge I did use my license on the above project during this period." A true and correct copy of the December 22, 2009 letter, is on file in the Board office.

Respondent signed and sealed drawings for the Hearing & Service Dogs, 9440 Science Center Drive, New Hope, Minnesota on November 19, 2009. A true and correct copy of the signed and sealed drawings for the Hearing & Service Dogs signed on November 19, 2009, is on file in the Board office.

In a letter dated March 7, 2010, Respondent stated, "Item 1 – I have enclosed a disk containing all calculations and

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drawings which have I applied my Minnesota seal for the time frame being asked to the best of my abilities to reconstruct work during that time period.” The projects listed on the disk were projects the Respondent sealed with his Minnesota Professional Engineers license, during the lapse of his Professional Engineering license from July 1, 2008 to December 29, 2009:

- ~ Storage Building USPS - #B96375, Eagan, Minnesota, April 2009.
- ~ Truck Dumping Station, Farmers Coop Elevator, Montevideo, Minnesota, April 2009.
- ~ Albert Lea Spec Building #1, Albert Lea, Minnesota, May 2009.
- ~ Trimont Truck Receiving, Jackson, Minnesota, September 2009.
- ~ Tri State Cold Storage, Rochester, Minnesota, September 2009.
- ~ Pax Christie, Special Occupancy-Frames, Rochester, Minnesota, November 2009.
- ~ Saint Johns Final, Redwood Falls, Minnesota, November 2009.
- ~ Univar USA Inc., Saint Paul, Minnesota, November 2009.
- ~ Service Dog Training Facility, New Hope, Minnesota, November 2009.
- ~ Heartland Corn Products, Fermenter Addition Order, Winthrop, Minnesota, November 2009.

A true and correct copy of the letter dated March 7, 2010, is on file in the Board office.

Respondent's license to practice professional engineering in the State of Minnesota is now current with an expiration date of June 30, 2012.

Enforcement Action: Respondent is reprimanded for the foregoing conduct. Respondent shall pay to the Board a civil penalty of \$7,500.00.

In the Matter of Bruce Victor Berg Architect License #16865

On May 2, 2011, the Board issued a Stipulation and Order. Facts: Respondent was first licensed to practice professional architecture in the State of Minnesota on September 19, 1984. On July 1, 2008, Respondent's license to practice professional architecture in the State of Minnesota expired. On September 13, 2010, Respondent reinstated his professional architecture license in the State of Minnesota. Respondent's professional architecture license is current with an expiration date of June 30, 2012.

Respondent self reported to Board Investigator, Lynette DuFresne, on September 7, 2010 in a phone conversation that he had practiced architecture during the time his professional architecture license lapsed from July 1, 2008 to September 7, 2010. Respondent stated the lapse was inadvertent as he failed to realize that his license had lapsed.

In a letter dated October 22, 2010, Respondent admits to

fifteen (15) projects that he worked on as a licensed architect. In the same letter dated October 22, 2010, Exhibit A, Respondent provided a copy of his business card. The business card states: “Bruce Berg, Architect/AIA.” True and correct copies of the letter dated October 22, 2010 and the Respondent's business card are on file in the Board office. Respondent provided copies of the drawings he prepared, certified and signed for the following projects:

- ~ HRA Remodel, Alexandria, Minnesota
- ~ MN Lakes Maritime Museum Addition, Alexandria, Minnesota
- ~ Tischer Quick Lube, Alexandria, Minnesota
- ~ Sacred Heart Church, Urbank, Minnesota
- ~ Gess Eye Clinic, Alexandria, Minnesota
- ~ Blue Ox Timber Frames, Alexandria, Minnesota
- ~ Lake Jessie Community Building, Alexandria, Minnesota
- ~ Barry Horst School Building, Alexandria, Minnesota
- ~ Avant-Garde Centre, Alexandria, Minnesota
- ~ Lutheran Social Services, Anderson Suites, Alexandria, Minnesota
- ~ Hvezda Hall Addition, Alexandria, Minnesota
- ~ Countryside Heating and Air Conditioning, Alexandria, Minnesota
- ~ Tischer Quick Lube, Alexandria, Minnesota, dated 1/18/10
- ~ Legal Services of N.W. Minnesota, Alexandria, Minnesota
- ~ Angelina's Restaurant, Bar/Party Room Addition, Alexandria, Minnesota

A true and correct set of drawings mentioned above for each project are located in the Board Office.

Enforcement Action: Respondent is reprimanded for the foregoing conduct. Respondent shall pay to the Board a civil penalty of \$10,000.00.

In the Matter of Roger Cummelin Architect License #20897 Not Certified as a Certified Interior Designer

On May 2, 2011, the Board issued a Stipulation and Order. Facts: Respondent was first licensed as an Architect in the State of Minnesota on September 28, 1990. On July 1, 2008, Respondent's Minnesota Architect's license in the State of Minnesota expired. On March 5, 2010, on the website for ALTUS Architecture + Design, www.altusarch.com/biography_rcummelin.html, it shows the Respondent with the title of “Roger Cummelin, AIA CID.” A true and correct copy of the March 5, 2010 website is on file in the Board office. On this same website dated March 5, 2010, it states that the Respondent is a “Registered Architect, State of Minnesota.”

In a letter dated March 16, 2010, Respondent states: “I was personally unaware that the website page you referred to (www.altusarch.com/biography_rcummelin.html) contained the phrase “Registered Architect, State of Minnesota.” I was not the author of this webpage, nor do I have a role in the publication of the firm's website. I have

requested that my employer, Altus Architecture + Design, immediately correct this error. On March 10, 2010 the aforementioned phrase was removed from the website.” A true and correct copy of the March 16, 2010 letter is on file in the Board office.

Respondent renewed his Minnesota Architect’s license on May 18, 2010. Respondent’s Minnesota Architect’s license was lapsed from July 1, 2008 through May 17, 2010. Respondent’s Minnesota Architect license is current with an expiration date of June 30, 2012. Respondent has never been certified as a Minnesota Certified Interior Designer.

Enforcement Action: Respondent is reprimanded for the foregoing conduct. Respondent shall pay to the Board a civil penalty of \$1,500.00. Respondent shall cease and desist from holding himself out as a Certified Interior Designer, CID, until such time as he becomes certified as a CID in the State of Minnesota.

In the Matter of Rod Finkle, Unlicensed

On June 2, 2011, the Board issued a Settlement Agreement and Cease and Desist Order. Facts: Respondent was first licensed as a Professional Engineer in the State of Minnesota on May 15, 1991. Respondent’s Professional Engineer’s license expired on June 30, 2010.

In a letter dated October 5, 2010, Respondent self-reported that his State of Minnesota Professional Engineer’s license had expired on June 30, 2010 and that he had inadvertently stamped and signed revised drawings for the Sam’s Club #4736 project, located at 14940 Florence Trail, Apple Valley, Minnesota, on August 27, 2010. A true and correct copy of letter dated October 5, 2010 is on file in the Board office.

In a letter dated October 25, 2010, Respondent provided a list of projects that he prepared and certified as a Licensed Professional Engineer in the State of Minnesota after July 1, 2010.

- ~ August 13, 2010, Eagan, Minnesota Wal-Mart store #4738
- ~ July 1, 2010, Bemidji, Minnesota, O’Reilly’s Automotive Store
- ~ August 18, 2010, Bemidji, Minnesota, O’Reilly’s Automotive Store
- ~ August 31, 2010, Bemidji, Minnesota, O’Reilly’s Automotive Store
- ~ September 14, 2010, Bemidji, Minnesota, O’Reilly’s Automotive Store

A true and correct copy of the October 25, 2010 letter and a true and complete set of plans for the projects mentioned above are on file in the Board office.

Enforcement Action: Respondent shall cease and desist from practicing engineering in Minnesota until such time as he becomes licensed as a professional engineer in the State of Minnesota. Respondent shall pay a civil penalty of \$2,500.00 to the Board.

In the Matter of Albert Paul Hermans Professional Engineer License #22122

On June 2, 2011, the Board issued a Stipulation and Order. Facts: Respondent was first licensed as a Professional Engineer in the State of Minnesota on July 13, 1992. Respondent’s Minnesota Professional Engineering license in the State of Minnesota is current with an expiration date of June 30, 2012. On June 30, 2008, Respondent renewed his Minnesota Professional Engineering license. On the Application for License/Certificate Renewal for July 1, 2008 to June 30, 2010, Respondent affirmed that he had been disciplined by the Oklahoma State Board of Licensure for Professional Engineers and Land Surveyors. A true and correct copy of the Application for License/Certificate Renewal for July 1, 2008 to June 30, 2010 is on file in the Board office.

Respondent renewed and affirmed the Board’s 2012 renewal application on-line on June 28, 2010 at 3:12 PM. In order to continue the online renewal process, it asks the licensee, “Since July 1, 2008, have you had a license disciplined, denied, surrendered, suspended or revoked?” There is a button to check ‘yes’ or ‘no’ to this question. Directly below this question it asks the licensee, “I swear or affirm that I have read the foregoing renewal application and continuing education reporting screens and that the statements are true and complete.” The next step to complete is a box to click that states, “I accept.” Additionally it states, “(You must check this box to continue).” Respondent clicked on the box to continue as his Professional Engineer license was renewed on June 28, 2010. If Respondent had selected ‘yes’ to the question, “Since July 1, 2008, have you had a license disciplined, denied, surrendered, suspended or revoked,” the system would not have let him continue and would have given him the error message: “You cannot renewal [sic] your license online if you had a license disciplined, denied, surrendered, suspended or revoked. Please contact Lynette DuFresne at 651-757-1510 for assistance...”

Respondent did not report that he had been disciplined by the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors & Landscape Architects, on October 24, 2008. A true and correct copy of the Missouri Board For Architects, Professional Engineers, Professional Land Surveyors & Landscape Architects Settlement Agreement/ Joint Agreed Disciplinary Order, dated October 24, 2008 is on file in the Board office.

In a letter dated August 20, 2010, Respondent stated: “When I applied for renewal on-line, I relied on my memory as to when the Missouri disciplinary action began and whether I had informed the Minnesota Board on a previous renewal. Obviously, my memory failed me and we are left with the current situation. As can be seen in the copy of the settlement agreement with the State of Missouri enclosed with your letter, the disciplinary action in Missouri was taken as a result of the consent order

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entered into with the State of Oklahoma in May 2007. The resultant probationary period in Missouri extends from January 1, 2009 to December 31, 2011 provided that I comply with the provisions therein. Based on the copy of my 2008 renewal, it would appear that the Board was notified of the disciplinary action taken in Oklahoma.” A true and correct copy of the letter dated August 20, 2010 is on file in the Board office.

Enforcement Action: The [Complaint] Committee acknowledges that the Respondent has voluntarily surrendered his professional engineering license on April 4, 2011. Respondent shall not reapply for licensure in this State as a professional engineer.

**In the Matter of Patrick Johnson
Professional Engineer License #22037**

On June 2, 2011, the Board issued a Stipulation and Order. Facts: Respondent was first licensed as a Professional Engineer in the State of Minnesota on May 20, 1992. Respondent's Minnesota Professional Engineer license is current with an expiration date of June 30, 2012.

On July 15, 2010, Joe Lahr, of Joe's Excavating Inc., located at 1229 Pinecone Road, Sartell, Minnesota, came into the Maple Grove Building Department, located in Maple Grove, Minnesota. Mr. Lahr was referred to Rick Davidson, Director, Building Inspection Services, with the City of Maple Grove, Maple Grove, Minnesota, as he did not wish to install the foundation drainage system in accordance with the 2000 International Residential Code (IRC), Section R405.1 on the single family home, located at 6916 East Fish Lake Road, Maple Grove, Minnesota. Mr. Lahr felt he had an alternative method of installing the system based on his experience in his home area. Mr. Davidson explained that the 2000 IRC, Section R405.1 must be followed. Mr. Davidson informed Mr. Lahr that he would need evidence of the soil type and it must come in the form of a geotechnical report prepared by a licensed engineer. Mr. Lahr indicated that he would have such a report prepared. Mr. Lahr appeared at the Maple Grove Building Department, Maple Grove, Minnesota, about an hour later and asked Mr. Davidson if he received an email with a letter from the engineer. Mr. Davidson did receive an email from the Respondent sent on July 15, 2010 at 11:42 A.M., that same day. Attached to the email sent on July 15, 2010 at 11:42 A.M., was a letter signed and certified by the Respondent dated July 15, 2010. A true and correct copy of the email sent on July 15, 2010 at 11:42 A.M. with a letter signed and certified by the Respondent dated July 15, 2010 is on file in the Board office.

In the same letter signed and certified by the Respondent on July 15, 2010, to Mr. Joe Lahr, Joe's Excavating, Respondent stated: "As we discussed per our phone conversation, it appears that all of the footings and foundations for the above referenced project are placed on well drained washed rock and backfilled with sand material. In addition, the rear

walkout area was backfilled with a great deal of sand, which will aid in drainage. These materials are well drained sands and gravels that are classified as GP or SP in accordance with the Unified Soils Classification System (USCS). They fall within Soil Group 1 in Table R405.1 of the International Residential Code (IRC). Therefore, they meet the exception under R405.1 of the IRC for the requirement of a drain tile system." A true and correct copy of the Table R405.1 is on file in the Board office.

On July 15, 2010 at 1:04 P.M., Mr. Davidson, Director, Building Inspection Services, City of Maple Grove, Maple Grove, Minnesota, e-mailed the Respondent asking three (3) questions.

1. Did you personally visit the site?
2. Can you provide the results of the soils report that indicate to what depth below the foundation the Class 1 soils extend?
3. Are the Class 1 soils referenced in your letter common only to the area under the footings or are they commonly encountered through the area covered by the dwelling?

A true and correct copy of the email sent to the Respondent at Independent Testing Tech, on July 15, 2010 at 1:04 P.M. is on file in the Board office.

Respondent replied to Rick Davidson, Director, Building Inspection Services, City of Maple Grove, Maple Grove, Minnesota on July 15, 2010 at 2:26 P.M. stating: "No, we did not visit the site. I talked to Joe and he sent me pictures of the site. Joe explained what he had done. And the pictures supported what he had told me. We have worked with Joe for nearly 20 years and have confidence in his work. There was no soils report. My understanding is that the class 1 soils only extend to a depth of about 4 inches below the footings. I understand the native soils are clay (CL) or clayey sand (SC) glacial till." A true and correct copy of the email sent as a reply from the Respondent to Rick Davidson, Director, Building Inspection Services, City of Maple Grove, Maple Grove, Minnesota on July 15, 2010 at 2:26 P.M. is on file in the Board office.

In a letter dated September 10, 2010 to Lynette DuFresne, Board Investigator, Respondent stated: "I had my doubts, but agreed to write a letter stating that, by definition, crushed rock and granular sand materials would fall under Group 1 Soils in Table R405.1. That was the intent of my letter. I was not intending to provide a geotechnical report, or to certify any inspection report. I was merely trying to state a fact. Specifically, that crushed rock and granular sand fall within Group 1 soils." A true and correct copy of the letter dated September 10, 2010 to Lynette DuFresne, Board Investigator, is on file in the Board office.

Respondent's letter dated July 15, 2010, was misleading and incomplete based on the fact that the Respondent admitted that he never visited the site and that the Respondent never took any soil samples to prove the types of soils he found.

Respondent's email sent to Rick Davidson, Director, Build-

ing Inspection Services, City of Maple Grove, Maple Grove, Minnesota, on July 15, 2010 at 2:26 P.M., was misleading, inaccurate and incomplete by making a statement on the soils and depths of the soils below the footing, when he did not visit the site located at 6919 East Fish Lake Road, Maple Grove, Minnesota.

Respondent was negligent as a Professional Engineer by having a telephone conversation with the contractor and using pictures of the site to support the letter he signed and certified on July 15, 2010 to Mr. Joe Lahr, Joe's Excavating.

Enforcement Action: Respondent is reprimanded for the foregoing conduct. Respondent shall pay to the Board a civil penalty of \$4,000.00.

Within six months (6) of the Board's approval of this Stipulation and Order, Respondent shall successfully complete and submit acceptable documentation thereof to the Board, two (2) hours of course(s) in professional ethics, which is/are approved in advance by the Complaint Committee. Completion of any courses for the two (2) hours of professional ethics instruction earned within six months (6) of the Board approval of this Stipulation and Order, that are being submitted for the purpose of fulfilling the professional ethics instruction required by this Order, shall not count toward any continuing education requirements in the 2012-2014 renewal period or beyond.

Within six months (6) of the Board's approval of this Stipulation and Order, Respondent shall successfully complete and submit acceptable documentation thereof to the Board, four (4) hours of course(s) in building code instruction, which is/are approved in advance by the Complaint Committee. Completion of any courses for the four (4) hours of building code instruction earned within six months (6) of the Board approval of this Stipulation and Order, that are being submitted for the purpose of fulfilling the building code instruction required by this Order, shall not count toward any continuing education requirements in the 2012-2014 renewal period or beyond.

In the Matter of Andrew Koshire Professional Engineer License #44189

On June 2, 2011, the Board issued a Stipulation and Order. Facts: Respondent was first licensed as a Professional Engineer in the State of Minnesota on June 13, 2005. On July 1, 2010, Respondent's Minnesota Professional Engineer license in the State of Minnesota expired. On December 8, 2010, Respondent's Minnesota Professional Engineer license was reinstated. Respondent's Minnesota Professional Engineer license is current with an expiration date of June 30, 2012.

During the time Respondent's license was lapsed (July 1, 2010 until December 8, 2010), Respondent admits that he held himself out as a Professional Engineer on various letters and emails. In a letter dated November 24, 2010, Re-

spondent admits to holding himself out as a Professional Engineer by using the title of "P.E." designation behind his name on 11 documents attached to his letter. A true and correct copy of the letter dated November 24, 2010, with attachments is on file in the Board office.

Enforcement Action: Respondent is reprimanded for the foregoing conduct. Respondent shall pay to the Board a civil penalty of \$500.00.

In the Matter of the Petition for Rule Variance by Ben Taheri

On June 2, 2011, the Board issued an Order Denying Variance from Board Rule.

Findings of Fact: 1. On April 22, 2011, Petitioner submitted the Petition to the Board seeking a rule variance from Minn. Rule 1800.1000, subps. 1 and 6-7, and 1800.1200 (2009)("the Rules").

2. Architects are licensed professionals trained in the art and science of the design and construction of buildings and structures that primarily provide shelter. Additionally, architects may be involved with designing the total built environment - from how a building integrates with its surrounding landscape to architectural or construction details that involve the interior of the building to designing and creating furniture to be used in a specific space. An architect will create the overall aesthetic and look of buildings and structures, but the design of a building involves far more than its appearance. Buildings also must be functional, safe, and economical and must suit the specific needs of the people who use them. Most importantly, they must be built with the public's health, safety and welfare in mind.

3. On or about March 25, 1987, Petitioner submitted an application for registration to practice architecture by examination to the Board. At that time, Petitioner was approved to take the applicable examination pursuant to Minn. Rule 1800.1200 (1987). Petitioner's application was subsequently voided due to inactivity within three years pursuant to Minn. Rule 1800.0500, subp. 1 (1987).

4. In 2004 and 2006, the Board received score reports related to Petitioner's attempt to pass portions of the Architect Registration Examination ("ARE"). The Board subsequently notified Petitioner that, among other issues, he did not have an application for licensure pending with the Board.

5. On March 16, 2007, the Board received an application for licensure by examination to practice architecture from Petitioner. In May 2007, the Board notified Petitioner that his application was administratively denied under the existing rules as incomplete because it did not include evidence of qualifying experience as established by the Intern Development Program ("IDP") training requirements as

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defined in the National Council of Architectural Registration Boards guidelines. *See* Minn. Rule 1800.1000 (2007).

6. On July 21, 2010, the Board received a letter from Petitioner requesting that the Board waive the ARE and IDP requirements in order to allow him to become a licensed architect in the State of Minnesota.

7. On July 29, 2010, the Board sent Petitioner a letter that, among other issues, summarized his license application history, provided him with his previous test scores, and advised that he would need to submit a new application if he wished to pursue licensure.

8. On December 10, 2010, the Board sent Petitioner a letter that declined his request for an administrative hearing, in part, because he did not have an application pending. The Board also notified Petitioner of the appropriate procedure to seek a rule variance, as well as provided instructions on what he would need to do to qualify for licensure as an architect in the State of Minnesota.

10. The purposes of the qualifying experience and examination requirements set forth in Minn. Rule 1800.1000, subps. 1 and 6-7, and 1800.1200 (2009) are to safeguard life, health, and property, and to promote the public welfare, by ensuring that licensed architects are competent and qualified to act under the license granted by the Board.

11. Board finds that none of the subparts in Minn. Stat. section 14.055, subd. 4 (2010) have been met. Specifically, the Board finds that application of the Rules to Petitioner would not result in hardship or injustice; that a variance from the Rules would be inconsistent with the public interest; and, that a variance from the Rules would prejudice the substantial legal or economic rights of any person or entity. These findings are sufficient grounds for the issuance of the order specified below.

12. Application and enforcement of the Rules, as applied to the circumstances of the Petitioner, would serve the purposes of the Rules.

13. Any Findings of Fact herein, which should more properly be deemed a Conclusion of Law, is hereby adopted as such.

Conclusions of Law: 1. Petitioner's request for a rule variance is properly before the Board, and the Board has jurisdiction to adjudicate the Petition. Minn. Stat. sections 14.055 and 14.056 (2010).

2. Petitioner is not entitled to a mandatory or discretionary variance under Minn. Stat. section 14.055, subds. 3-4 (2010).

3. Any Conclusion of Law herein, which should more properly be deemed a Finding of Fact, is hereby adopted as such.

Order Denying Petition for Rule Variance: Upon consideration of the foregoing Facts and Findings and Conclusions of Law, and based upon all the files, records, and proceedings herein, the Board hereby **DENIES** the Petitioner a variance from Minn. Rule 1800.1000, subps. 1 and 6-7, and 1800.1200 (2009).

**In the Matter of Loyall A. Wharton
Professional Engineer License #46558**

On June 2, 2011, the Board issued a Stipulation and Order. Facts: Respondent was first licensed as a Professional Engineer in the State of Minnesota on July 1, 2008. Respondent's Minnesota Professional Engineering license is current with an expiration date of June 30, 2012. On April 29, 2009, Respondent signed the engineering plans for the 'clear wire' – wireless broadband project, located in Maplewood, Minnesota at McKnight Road South and Hillwood Drive East. Respondent did not incorporate the mandatory language as required in Minnesota Statutes section 326.12, subdivision 3 (2010). A true and correct copy of the plans signed by the Respondent on April 29, 2009 for the 'clear wire' – wireless broadband project, located in Maplewood, Minnesota, is on file in the Board office.

Enforcement Action: Respondent is reprimanded for the foregoing conduct.

**In the Matter of John Whalen
Professional Engineer License #41451**

On August 4, 2011, the Board issued a Stipulation and Order. Facts: Respondent was first licensed as a Professional Engineer in the State of Minnesota on September 11, 2001. On July 1, 2010, Respondent's Minnesota Professional Engineer license in the State of Minnesota expired. On February 1, 2011, Respondent's Minnesota Professional Engineer license was reinstated. Respondent's Minnesota Professional Engineer license is current with an expiration date of June 30, 2012.

During the time Respondent's license was lapsed (July 1, 2010 until February 1, 2011), Respondent admits that he held himself out and practiced as a Professional Engineer. In a letter dated January 25, 2011, that was attached to the Application for License/Certificate Reinstatement through 6/30/2012, Respondent stated: "Unfortunately, I am unable to sign the Affidavit for Reinstatement because I have provided Professional Engineering Services since the time my license lapsed." A true and correct copy of the January 25, 2011, letter with the Application for License/Certificate Reinstatement through 6/30/2012, is on file in the Board office.

In a letter dated February 28, 2011, Respondent stated: "Please accept the following as a response to the allegation that I practiced professional engineering in the state of Minnesota during a lapse in my license from July 1, 2010 until February 1, 2011. I have self reported this violation, and offered the following explanation in my request for re-

instatement.” A true and correct copy of the letter dated February 28, 2011, is on file in the Board office.

In the same letter dated February 28, 2011, Respondent provided a list of eight (8) Minnesota projects that he signed and certified the plans for from July 1, 2011 until February 1, 2011.

- ~ Trachte Job #11020
- ~ Trachte Job #11130
- ~ Trachte Job #11190
- ~ Trachte Job #11208
- ~ Trachte Job #11213
- ~ Trachte Job #11221
- ~ Trachte Job #11222
- ~ Trachte Job #11246

Enforcement Action: Respondent is reprimanded for the foregoing conduct. Respondent shall pay to the Board a civil penalty of \$3,000.00.

BOARD MEMBER OPENINGS

The terms of five of our Board members are expiring in January 2012. If you are interested in applying for any of the following positions, please download the application from the Minnesota Secretary of State's website at www.sos.state.mn.us or contact the Board office at 651-296-2388.

**Architect
Professional Engineer
Land Surveyor
Landscape Architect
Certified Interior Designer**

Applications are retained and referred to when making appointments for three years.

Board Member Achievements

Lisa Hanni, LS, will receive the MN GIS/LIS Consortium's *Polaris Leadership Award* on October 6, 2011. This award recognizes active, established leaders in the geospatial community who demonstrate a beacon of energy and creativity that inspires and guides the rest of us [the geospatial community]. Lisa has served on the Minnesota Board since 2007 and is currently serving as the Board's Vice Chair.

Code Official

C O R N E R

EMPATHY

**By David Fisher
Certified Building Official**

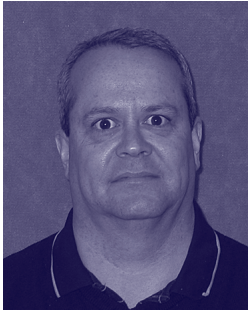


Empathy: "Understanding so intimate that the feelings, thoughts, and motives of one are readily comprehended by another." - American Heritage Dictionary

The job of designing a building is a challenging one and both design professionals and code officials need to have empathy toward each other. The code official must work within the codes and rules, with the political atmosphere of the city in which they work, and with the design professionals. The design professionals themselves are often working for a customer that likes to push the limits. The purpose of the code is to establish minimum requirements that safeguard the health, safety and welfare of the public. The purpose of licensure or certification of design professionals is to safeguard life, health and property, and promote the public welfare. These purposes are very similar and we need to work together to achieve the minimum requirements to safeguard the public.

Communication is the key and remember, the building code is the minimum standard. The code official needs to have an open mind and let the design professional design the building; the design professional needs to work within the codes. The best way for design professionals to achieve their goal is to get the code official involved early in the project. Often times there are multiple ways to complete a project and still be code compliant. Take advantage of the experience and knowledge of the code official as they could have suggestions and/or alternate equals to the code that may be acceptable to achieving your goal. You will not know unless you communicate your needs to the code official and ask questions. In the end, code officials will ask you to provide everything in writing for your design, so communicate, document and work together as a team to protect the health, safety and welfare of the public.

Meet the New Board Members



Terry L. Groshong **Architect**

Mr. Groshong has been a licensed Architect since 1983 and is a past Board member of the American Institute of Architects, Northern Chapter. He is also NCARB and CID certified.

Terry has been involved in architecture since the age of 15, working summer months in an architectural firm in Hibbing all through his schooling process. Upon graduating from North Dakota State University in 1980, he returned to the firm of Robert Y. Sandberg & Associates where he served as a Principal, Project Architect and as Executive Secretary for the corporation.

In 1987 he moved his family to Duluth, Minnesota where he entered into a partnership with Edward Shafer & Associates as Vice President and Director of Design. Terry was instrumental in managing completion of Wolf Ridge Environmental Center and developing both corporate and government sectors for the firm. In 1991, Terry took a position with the Duluth Housing & Redevelopment Authority as their Development Coordinator. He was instrumental in developing over 75 units of low/moderate income housing and was responsible for the HUD Comprehensive Grant Modernization Program.

This public sector calling changed course again in 1997 with him taking a position with the City of Duluth as a Project Architect responsible for the design and implementation of the Capital Improvement Program. Currently, since 2006, Terry has been the City Architect and Facility Manager for the City. His responsibilities include management of 23 skilled trades people, inclusive of the Street Light Utility, daily maintenance and facility management of all City of Duluth structures, developing and implementation of the Capital Improvement Program and serves as the City's Skywalk Administrator.

In his spare time, Terry spends time landscaping, riding motorcycle and working with the arts. He and his fiancé Cheri spend time traveling and summers at Sturgeon Lake.



William H. Kuretsky **Public Member**

Mr. Kuretsky lives in Minnetonka, MN, with his wife Jan. He has three children and three grandchildren. He received BS, MSME and Juris Doctor degrees from the University of Minnesota. From 1979 through

the end of 2008, Mr. Kuretsky was employed by the Minnesota Attorney General's office as an Assistant Attorney General. In that position he represented state agencies in various financial transactions and also represented state boards, including the Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design. He enjoys tennis, reading, traveling and learning from and being continuously amazed by his grandchildren.



David M. Rossman **Professional Engineer**

Mr. Rossman has been a licensed Civil Engineer since 1972. He graduated from the University of Minnesota in 1968 and worked for the City of St. Paul until 1974 in their Sewer Design section. The city was

greatly interested in reducing pollution via separating the storm and sanitary systems. Dave worked for the City of Rochester as their Design Engineer until 1978, then as their Transportation Engineer until 2002. His city work experience included designing MSA roadways, city drainage design and design of new sidewalks. His traffic engineer work included traffic signing, traffic signals installation and operation, installation and operation of parking ramps, parking metered areas, and design and construction of bicycle trails. Since 2002 he has worked for various local civil engineering firms specializing in MnDOT's Design/Build highway projects. He obtained certification as a Professional Traffic Operation Engineer (PTOE) from the Institute of Traffic Engineers.

David currently serves as a volunteer on ROCOG's Bicycle and Pedestrian Advisory Committee (BPAC), the Winona Diocese Cemetery Board, conservator for mentally challenged people, and is active in his parish choir. Dave's recreational activity includes camping, bicycle riding and beekeeping. Dave and his wife Kristine have three children and five grandchildren.

HOW DO WE PROTECT “PUBLIC WELFARE”? AND WHAT IS IT EXACTLY?

By Marjorie Pitz, FASLA, Landscape Architect member of the Board

CLARB, the Council of Landscape Architecture Registration Boards, wanted to understand public welfare better because it prepares questions for the LA national exam that measures the candidate's knowledge of health, safety and welfare. But how is public welfare measured? CLARB discovered that none of the design professions has a clear picture of this nebulous topic, despite the fact we are all required to protect “public health, safety AND WELFARE.”

Surprising, right? How can we protect “public welfare” if we don't know what it is?

CLARB hired a Canadian research firm, ERIN Research, to analyze “Public Welfare.” Here is their definition:

Public welfare,
in the context of Landscape Architecture,
means the stewardship of natural environments
and of human communities in order to
enhance social, economic, psychological,
cultural and physical functioning,
now and in the future.

ERIN Research explored the ways landscape architects contribute to public welfare and found seven categories. (These can apply to other professions as well.)

Landscape Architecture:

1. Enhances **environmental sustainability**
2. Contributes to **economic sustainability**
3. Builds **community**
4. Promotes **health and well-being**
5. Encourages **landscape awareness**
6. Offers **aesthetic and creative experiences**
7. Enables **communities to function more effectively**

These categories don't have code books that guide you towards compliance of minimum legal standards. Compared to the legal standards that govern **public safety** and **health, public welfare** is less tangible and harder to measure.

Interestingly, the public has demanded help in evaluating category one, environmental sustainability. LEED, Sustainable Site Initiative, and Green Guide for Health Care are voluntary programs that assist in evaluating healthy environments. Rather than a building code that is mandated by law, environmental sustainability is being ranked by new, privately governed systems to guide and honor successful design.

Going a step further, Minnesota decided energy saving is so critical, they passed law in 2010 that requires new public buildings to use the MN Sustainable Building Energy Guideline, which is similar to LEED. Will we see more regulations and standards for public welfare get adopted as law? Which categories can we measure? How do we establish criteria for success or failure?

The public we serve is increasingly vocal about public welfare issues and is showing us what succeeds and fails. They are demanding changes to improve quality of life. With the help of social media options, it is possible for grassroots efforts to achieve widespread visibility despite a lack of government or corporate support. For example, the push for locally-grown food (an issue of public welfare) is largely driven via social media. It has been gaining momentum despite subsidies and politics that support distant, large-scale corporate farming.

There are many intriguing aspects of public welfare: 1. It is hard to define; 2. It is hard to measure; 3. Responsibilities of the designer are unclear. Interestingly, when the public welfare is adversely affected they can now use new, social communication methods to quickly gain power in successful grassroots efforts.

It's time we look at this topic in greater depth. More articles on Public Welfare will follow.

*Upcoming
Events*

October 14, 2011: Board and ELSGEO/ALACID Section Meetings
October 27, 2011: Complaint Committee Meeting

November 3-5, 2011: ASBOG Annual Meeting
November 8, 2011: Oral Exam Rule Hearing
November 11-12, 2011: NCIDQ Annual Meeting
November 16, 2011: Complaint Committee Meeting
***No Board meeting will be held in November**

December 2, 2011: Board and Rules/Credentialing Committee Mtgs
December 14, 2011: Complaint Committee Meeting